

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

BURVIN STEVENSON,

Case No. 2:04-CV-31

Petitioner,

Hon. Richard Alan Enslen

v.

FABIAN LAVIGNE,

ORDER

Respondent.

This matter is before the Court on Petitioner Burvin Stevenson's Motion for Reconsideration of the Court's Judgment of January 24, 2008, which dismissed Petitioner's habeas corpus petition without prejudice due to lack of exhaustion. Pursuant to Western District of Michigan Local Civil Rule 7.4(a), reconsideration is appropriate only when the movant "demonstrate[s] a palpable defect by which the Court and the parties have been misled . . . [and] that a different disposition must result from the correction thereof." Petitioner's motion raises no new issues that have not previously been considered and decided. No palpable error has been revealed nor has it been shown that a different disposition should result. Simply put, the previous Judgment remains a proper disposition of the case for the reasons explained therein and in the Magistrate Judge's Report and Recommendation.

Although the Motion for Reconsideration was filed by counsel, Petitioner has also filed a *pro se* motion entitled "Ex-parte Notice to the Court, and Request to File Motion for Reconsideration Due to Ineffective Assistance of Counsel." In this Motion, which was filed before the Motion for Reconsideration filed by counsel, Petitioner argues his counsel is ineffective since he will not file a motion for reconsideration on his behalf. Since counsel has now filed a Motion for Reconsideration, Petitioner's *pro se* motion is moot. Additionally, the Court has reviewed Petitioner's *pro se* Motion

and discerns no legal or factual merit. This is not the first time, however, that Petitioner has filed this kind of motion. On October 11, 2007, Petitioner filed a *pro se* Motion to Dismiss Counsel, (*see* Dkt. No. 121), yet later abandoned this request during an October 25, 2007 hearing before the Magistrate Judge. This Court will not entertain motions concerning the ineffective assistance of Petitioner's counsel, Paul A. Peterson, until such time as counsel is discharged by leave of court.

THEREFORE, IT IS HEREBY ORDERED that Petitioner Burvin Stevenson's Motion for Reconsideration (Dkt. No. 147) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's *pro se* Ex-Parte Notice to the Court, and Request to File Motion for Reconsideration Due to Ineffective Assistance of Counsel (Dkt. No. 145) is **DENIED** as moot.

DATED in Kalamazoo, MI:
April 16, 2008

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE